

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY TUSWEET SMITH,

Plaintiff

v.

PENNSYLVANIA STATE POLICE;
JENNIFER ANNE PETERSON-
BUCK; LINDA H. BARR; CARSON B.
MORRIS; *and* PENNSYLVANIA
ATTORNEY GENERAL,

Defendants.

22-cv-529-NR-MPK

District Judge J. Nicholas Ranjan

Magistrate Judge Maureen P. Kelly

ORDER

This is a *pro se* civil rights action filed pursuant to 42 U.S.C. § 1983. It was referred to Magistrate Judge Kelly for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1) and the Local Rules of Court applicable to Magistrate Judges.

Currently before the Court is Judge Kelly's Report & Recommendation (ECF 24) pertaining to Defendants' motion to dismiss (ECF 13). Mr. Smith did not file objections. *See* ECF 24 (setting April 21, 2023 as the deadline for objections). The Court therefore considers the unchallenged R&R only for clear error. Fed. R. Civ. P. 72(b). After carefully considering Judge Kelly's R&R, the Court discerns no clear error and therefore adopts it as the opinion of the Court.

Defendants' motion to dismiss is hereby **GRANTED**, and Mr. Smith's claims are hereby **DISMISSED** without prejudice. The Clerk of Court shall mark this case as **CLOSED**. Consistent with the R&R, Mr. Smith may file a motion to re-open the case and seek leave to amend his complaint if and when his underlying conviction or sentence is reversed, vacated, or otherwise invalidated. *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

DATE: May 1, 2023

BY THE COURT:

/s/ J. Nicholas Ranjan
United States District Judge